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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,988	03/26/2004	Thomas J. Clover	2070/5	9605

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/809,988

Applicant(s)

CLOVER, THOMAS J.

Examiner

Jennifer E. Novosad

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1 and 11 are objected to because only the first letter of a claim should be capitalized. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 11, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the base" in line 6. There is insufficient antecedent basis for this limitation in the claim. It is noted that a base "portion" is set forth in line 2. This rejection is also applicable to claim 11 (see "bases" in line 5).

Claims 2 and 3 recite the limitation "the base and support in line 1. There is insufficient antecedent basis for this limitation in the claim. It is noted that claim 1 sets forth a base and support "portion".

It is unclear from the language of the claim, what is meant by "snap fit" in claims 3 and 13.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 8, 9, 11, 12, 14, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,584,399 (King '399).

King '399 discloses a portable construction material stand system comprising two spaced apart stands (each half of Figures 2 or 5 defines one stand); each stand comprises a base portion (28, 40) and a support portion (26) extending upwardly therefrom and attached to the base portion (28) such that the support portion (26) includes an angled contact surface; *with respect to claims 2 and 12*, the base (28) and support portion (26) define a unitary member; *with respect to claims 4 and 14*, the base portion includes a flanged portion (at 42); *with respect to claims 8 and 18*, the support portion (26) and the base portion (28) create an angle of greater than 90 degrees (see Figure 1); *with respect to claims 9 and 19*, the support portion comprises a top cap (38).

Claims 1, 2, 4, 5, 10, 11, 12, 14, 15, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,360,211 (Blake '211).

Blake '211 discloses a portable construction material stand system comprising two spaced apart stands (each half of Figure 1 defines one stand); each stand comprises a base portion (19) and a support portion (13, 20) extending upwardly therefrom and attached to the base portion (19) such that the support portion (13, 20) includes an angled contact surface (see Figure 2); *with respect to claims 2 and 12*, the base (19) and support portion (13, 20) define a unitary

member; *with respect to claims 4 and 14*, the base portion includes a flanged portion (at 31); *with respect to claims 5 and 15*, the support portion comprises at least one bracket hole (see Figure 3); and *with respect to claims 10 and 20*, the support portion comprises a telescopic portion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over King '399, alone.

King '399 discloses the system as advanced above.

The claims differ from King '399 in requiring the base and support portion to be snap fit.

Although King '399 do not disclose these elements being snap fit, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the elements such that they could be snap fit together, thereby increasing structural support and stability while allowing ease n assembly and disassembly.

Claims 6, 7, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over King '399 as applied to claims 1-4, 8, 9, 11-14, 18, and 19 above, and further in view of U.S. Patent No. 4,626,017 (Robertson '017).

King '399 discloses the system as advanced above.

The claims differ from King '399 in requiring: (a) the support portion to have a padding material (claims 6 and 16), and (b) the padding to be adhesively bonded to the contact surface (claims 7 and 17).

With respect to (a), Robertson '017 teaches the use of a padding material (41) on the support portion of the stands.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the stands of King '399 with a padding material, thereby decreasing potential damage to articles placed therein.

With respect to (b), although the use of adhesive is not explicitly stated by the references, it would have been obvious to one of ordinary skill in the art at the time the invention was made that adhesive could be used, since adhesive is a common material used for attaching two elements together.

Claims 3, 8, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blake '211, alone.

Blake '211 discloses the system as advanced above.

The claims differ from Blake '211 in requiring: (a) the base and support portion to be snap fit (claims 3 and 13), and (b) the angle between the base and support portions to be greater than 90 degrees (claims 8 and 18).

With respect to (a), although Blake '211 do not disclose these elements being snap fit, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the elements such that they could be snap fit together, thereby increasing structural support and stability while allowing ease n assembly and disassembly.

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With respect to (b), although Blake '211 do not explicitly disclose the angle between the base and support portions, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have disposed the elements such that an angle of greater than 90 degrees would be formed therebetween, thereby increasing structural stability of articles placed therein against tipping.

Claims 6, 7, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blake '211 as applied to claims 1-5, 8, 10, 11-15, 18, and 20 above, and further in view of U.S. Patent No. 4,626,017 (Robertson '017).

Blake '211 discloses the system as advanced above.

The claims differ from Blake '211 in requiring: (a) the support portion to have a padding material (claims 6 and 16), and (b) the padding to be adhesively bonded to the contact surface (claims 7 and 17).

With respect to (a), Robertson '017 teaches the use of a padding material (41) on the support portion of the stands.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the stands of Blake '211 with a padding material, thereby decreasing potential damage to articles placed therein.

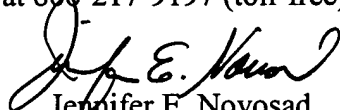
With respect to (b), although the use of adhesive is not explicitly stated by the references, it would have been obvious to one of ordinary skill in the art at the time the invention was made that adhesive could be used, since adhesive is a common material used for attaching two elements together.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer E. Novosad
Primary Examiner
Art Unit 3634

February 14, 2006